Due Date: March 25, 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	
Inventor: Lawrence N. Chapman et al.	Examiner: Usha Raman
Serial #: 09/726,367	Group Art Unit: 2623
Filed: November 29, 2000	Appeal No.: _____
Title: BACKWARDS COMPATIBLE REAL-TIME PROGRAM GUIDE CAPACITY INCREASE	

REPLY BRIEF OF APPELLANTS

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 CFR §41.37, Appellants hereby submit the Reply Brief of Appellants on appeal from the final rejection in the above-identified application, as set forth in the Final Office Action dated May 12, 2007 and the Advisory Action mailed June 8, 2007, and in response to the Notice of Non-Compliant Appeal Brief dated October 4, 2007.

No fee is required. However, should the Appellants be mistaken in this regard, please charge any additional fees or credit any overpayments to Deposit Account No. 50-0383.

I. REAL PARTY IN INTEREST

The real party in interest is The DirecTV Group, Inc., the assignee of the present application.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences for the above-referenced patent application.

III. STATUS OF CLAIMS

Claims 1-38 are pending in the application.

Claims 1-3, 6, 7, 9-11, 13, 14, and 34-36 were rejected under 35 U.S.C. §103(a) as being obvious in view of U.S. Patent No. 5,883,677 to Hofmann, and U.S. Patent No. 5,867,207 to Chaney et al. (Chaney) and U.S. Patent No. 6,434,384 issued to Norin et al. (Norin) and these rejections are being appealed.

Claims 4, 5, and 12 were rejected under 35 U.S.C. §103(a) as being obvious in view of Hofmann, in further view of Chaney, Norin and U.S. Patent No. 6,133,910 to Stinebruner.

Claims 8 and 15 were rejected under 35 U.S.C. §103(a) as being obvious in view of Hofmann, in further view of Chaney, Norin, and U.S. Patent No. 6,401,242 to Eyer et al. (Eyer).

Claim 16-18, 20, 21, and 37 were rejected under 35 U.S.C. §103(a) as being obvious in view of U.S. Patent No. 6,072,983 to Klosterman, in further view of Chaney and Norin.

Claim 19 was rejected under 35 U.S.C. §103(a) as being unpatentable over Klosterman, in further view of Chaney, Norin, and Stinebruner.

Claim 22 is rejected under 35 U.S.C. §103(a) as being unpatentable over Klosterman in further view of Chaney, Norin, Stinebruner, and Eyer.

Claims 23-28, 31, 32, and 38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Klosterman in further view of Chaney and Norin.

Claims 29-30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Klosterman in further view of Chaney, Norin, and Stinebruner.

Claim 33 is rejected under 35 U.S.C. §103(a) as being unpatentable over Klosterman in further view of Chaney, Norin, and Eyer, and these rejections are being appealed.

IV. STATUS OF AMENDMENTS

No amendments to the claims have been made subsequent to the final Office Action.

V. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-3, 6, 7, 9-11, 13, 14, and 34-36 are patentable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,883,677, issued to Hofmann (hereinafter, the Hofmann reference) in view of U.S. Patent No. 5,867,207, issued to Chaney (hereinafter, the Chaney reference) in view of U. S. Patent No. 6,434,384, issued to Norin et al. (hereinafter, the Norin reference).

Whether claims 4, 5, and 12 are patentable under 35 U.S.C. §103(a) over Hofmann in view of Chaney, Norin and Stinebruner.

Whether claims 8 and 15 are patentable under 35 U.S.C. §103(a) over Hofmann in view of Chaney, Norin, and Eyer.

Whether claims 16-18, 20, 21, and 37 are patentable under 35 U.S.C. §103(a) over Klosterman in view of Chaney and Norin.

Whether claim 19 is patentable under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, and Stinebruner.

Whether claim 22 is patentable under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, Stinebruner, and Eyer.

Whether claims 23-28, 31, 32, and 38 are patentable under 35 U.S.C. §103(a) over Klosterman in view of Chaney and Norin.

Whether claims 29-30 are patentable under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, and Stinebruner.

Whether claim 33 is patentable under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, and Eyer.

VI. ARGUMENT

A. The References

1. The Hofmann Reference

Hofmann discloses a method and apparatus for receiving, organizing and presenting program information to a display device in a home from at least two outside sources such as CATV, telephone companies (TELCOs) and direct broadcast satellite (DBS) is disclosed. A distribution network is established within the home using, for example, a consumer electronics bus (CEBus). First, a plurality of signals each from a different outside source and each being associated with information for constructing a program information database for the respective source are received. Next, the separate streams of program information for each outside source are integrated into a single merged database, entries of which can be accessed as a function of user supplied criteria. Additionally, information may be appended to each record of the entries in the separate streams of program information which indicate source and/or cost, and, finally, the information contained in the merged database is presented via the CEBus to a user for viewing and function selection.

2. The Chaney reference

Chaney discloses a program guide in a digital video system. The digital video system receives a digital bitstream representing video and audio information and containing a plurality of packetized data programs in a data format and includes data units related to the selection of individual programs and individual packetized datastreams associated with a program. The system includes a first processor responsive to the bitstream for capturing program guide information and a second processor responsive to the bitstream for capturing selected program data. The program guide data includes a base data unit for selecting a first program and a second data unit of predetermined offset to the base data unit for selecting a second program. The second processor captures program data by capturing data with identifiers matching an identifier determined from the data units.

3. The Norin reference

Norin discloses a non-uniform multi-beam satellite communications system and method, said to be particularly useful for television signals, that allows for local as well as nationwide broadcast service by allocating greater satellite resources to the more important

local service areas. This is accomplished by broadcasting a non-uniform pattern of local service beams and designing the system to establish different service area priorities through factors such as the individual beam powers, sizes, roll-off characteristics and peak-to-edge power differentials. Frequency reuse is enhanced by permitting a certain degree of cross-beam interference, with lower levels of interference established for the more important service areas.

4. The Eyer reference

Eyer discloses an apparatus and method for integrating a plurality of video sources. A video system utilizes a "virtual tuner" that integrates signals from multiple video sources to provide a plurality of "virtual channels", each of which has both a video source and a channel associated with it. When a virtual channel is selected, the correct video source is selected and tuned to the correct channel automatically. The virtual tuner may be embodied in a television or in a separate electronic component coupled thereto, such as a direct broadcast satellite receiver. Alternatively, the video system may be embodied in a universal remote control which is capable of outputting multiple signals to multiple devices in response to a key depression, using either one or two signal transmitters. Channel information may also be downloaded or obtained from a database, for example, to customize an electronic component to receive local broadcast channels.

5. The Klosterman reference

Klosterman discloses a merging multi-source information in a television system. A system that provides a scheme for margin television schedule information received from multiple sources (26, 28, 30 and 34) is also disclosed. In the preferred embodiment, a microprocessor (36) mixes and sorts the schedule information received from multiple source devices (26, 28, 30 or 34). The schedule information is then displayed in a television schedule guide (50). A user can select a program (60 or 62) by pointing to that program in the displayed schedule information (50). The system (10) then carries out an automatic switching/tuning such that the required source device (26, 28, 30 or 34) is input to the destination device (22), and a tuner is then tuned to the selected program's channel (52).

6. The Stinebruner reference

Stinebruner discloses an apparatus and method for integrating a plurality of video sources. The apparatus is said to provide a scheme for margin television schedule information received from multiple sources (26, 28, 30 and 34). In the preferred embodiment, a microprocessor (36) mixes and sorts the schedule information received from multiple source devices (26, 28, 30 or 34). The schedule information is then displayed in a television schedule guide (50). A user can select a program (60 or 62) by pointing to that program in the displayed schedule information (50). The system (10) then carries out an automatic switching/tuning such that the required source device (26, 28, 30 or 34) is input to the destination device (22), and a tuner is then tuned to the selected program's channel (52).

B. The Applicants Claims are Patentable Over the Cited References

1. Claims 1-3, 6, 7, 9-11, 13, 14, and 34-36 are Patentable Under 35 U.S.C. § 103(a) over Hofmann in view of Chaney and Norin.

a) The Applicant Has Not Mischaracterized Chaney

The Examiner's answer argues that the Applicant has mischaracterized the Chaney reference.

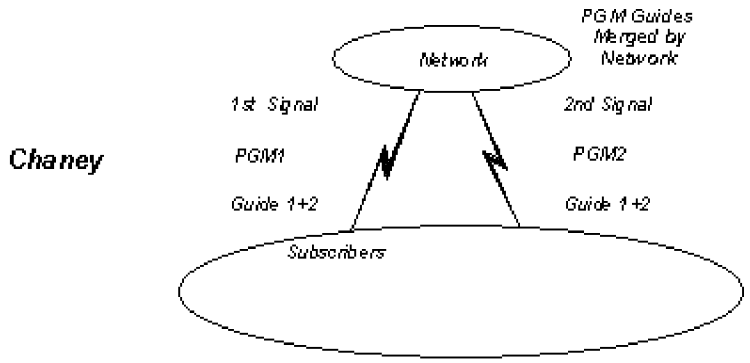
> "Appellant's traversal of the combination of the plurality of references stem primarily from appellant's mischaracterization of the Chaney reference, wherein appellant states (see Brief page 14) that, 'Chaney teaches transmitting the same (merged) program guide on the same channel but this teaches away from transmitting different program guides on the same channel'."

The Examiner is mistaken. The Applicant characterized the Chaney reference thusly:

> "Chaney discloses a system wherein both signals come from the same network, and the program guides are merged by the network and sent to the subscribers."

For the convenience of the Board of Appeals, the Applicant presented the figure

below to illustrate they Chaney system.



Chaney discloses a system that uses two satellites within a few degrees of one another in geosynchronous orbit. In other words, it is a satellite broadcast system like those well known in the art.

> The present system utilizes two satellites within a few degrees of each other in geosynchronous earth-orbit stationed at an altitude of 22,300 miles, approximately over the state of Texas. With this arrangement, receivers located anywhere in the contiguous 48 states of the United States can receive signals from both satellites on the same receiving antenna dish without having to reposition the antenna dish. Each satellite transmits its signals with a respective polarization. Selecting a satellite for reception of its signals is accomplished at the receiving antenna by selecting those signals with the appropriate polarization. Each satellite includes sixteen transponders for transmitting signals to the receiving antenna dish over a range of frequencies. Each transponder is time-multiplexed to convey a plurality of television channels (e.g., six to eight channels), substantially simultaneously. The satellite signals are transmitted in compressed and packetized form, and comprise television and ancillary data signals. Because the system is capable of carrying as many as two hundred fifty-six channels, some television program selection method and apparatus, which is easy to understand and operate, must be provided for the user.

Plainly, this is a system including two satellites, each broadcasting with a plurality of transponders, but at different polarizations. The problem that Chaney solves is how to allow the user to select which program they wish to receive from all of the active channels, because that program may be transmitted by any of a multiple channels on the multiple transponders using a multiple of satellites. Exacerbating this problem is the fact that the assignment of programs to channels, transponders, and satellites may change with time due to equipment failures and other reasons.

> A satellite receiver may be programmed to perform a function similar to the common autoprogramming function, in which a television receiver searches for all active channels and records detection of each as it is found. If such a system is used after a transponder failure, the failed transponder will be noted and a new active transponder will be found (assuming that the programming has been moved to a new transponder by ground-based control personnel). The user's receiver would then have to perform an internal remapping to associate the desired channel with the new transponder. However, in the event that a power supply module failed in the satellite, several transponders which may receive power from that module may cease transmitting at once. In such an event, the autoprogramming solution given above will not work because several new transponders will be found at the same time as several old transponders are noted as missing. In such a case, the receiver will have no way of allocating the received signals to their proper channels. Moreover, as noted above, since each transponder conveys six to eight channels, the channels assigned to the failed transponder may be distributed among several still-functioning transponders. In that case the receiving antenna will have access to all of the television channels, but the receiver will, quite literally, not know where to look for those channels which have been moved.

Chaney proposes a solution to this situation. The solution is to download to each receiver a "Master Program Guide" which relates programs and virtual channel numbers the information required to tune the particular program.

> In the subject system, the information necessary to select a given television program is not fixedly-programmed into each receiver but is rather is down-loaded from the satellite continually on each transponder. The television program selection information comprises a set of data known as a Master Program Guide (MPG), which relates television program titles, their start and end times, a virtual channel number to be displayed to the user, and information allocating virtual channels to transponder frequencies and to a position in the time-multiplexed data stream transmitted by the particular transponder. In a system according to the subject invention, it is not possible to tune any channel until the first master program guide is received from the satellite, because the receiver literally does not know where any channel is located, in terms of frequency and position (i.e. data time slot) within the data stream of any transponder.

The Examiner's answer argues that two master program guides are provided … one for each satellite:

Therefore, each of the two satellites further comprises multiple transponders, wherein the program guide corresponding to that satellite is transmitted on all the transponders of that satellite (akin to "physical channels"), the program guide occupying a logical/virtual first channel (the specific assigned SCID) in each satellite system (see column 4, lines 1-4 and 60-62). Therefore in the scenario comprising two satellites, Chaney discloses receiving a first program guide associated with the first satellite on a first channel (SCID '0000 0000 0001') and receiving a second program guide associated with the second satellite on a first channel (SCID '0000 0000 0001').(emphasis added)

However, Chaney only describes only one MPG that is transmitted on all transponders. If not, there would be a delay of at least 2 seconds incurred while a new program guide was acquired.

> A master program guide is preferably transmitted on all transponders with the television program video and audio data, and is repeated periodically, for example, every 2 seconds. The master program guide is not encrypted, and can be used by the receiver immediately after being received and stored. The master program guide, once received, is maintained in a memory Patent unit in the receiver, and updated periodically, for example every 30 minutes. Retention of the master program guide allows instantaneous television program selection because the necessary selection data are always available. If the master program guide were to be discarded after using it to select a television program, then a delay of at least two seconds would be incurred while a new program guide was acquired, before any further television program selections could be performed.

The Examiner's Answer would argue that the MPG is transmitted not on all transponders of the system, but rather, on all transponders of a particular satellite, but does that make sense?

The Chaney system indisputably uses two satellites to broadcast the programs to users. How then does the user tune to a virtual channel that happens to be carried on a satellite that is not currently tuned (via selection of the appropriate polarization, transponder, and SCID) unless the desired channel is *also* listed in the MPG being transmitted by the currently tuned satellite?

Chaney says that tuning to this new channel is impossible without the master program guide:

> the particular transponder. In a system according to the subject invention, it is not possible to tune any channel until the first master program guide is received from the satellite, because the receiver literally does not know where any channel is located, in terms of frequency and position (i.e. data time slot) within the data stream of any transponder.

Chaney also indicates that the master program guide holds all of the information needed to tune a particular program.

> following eight hours. That is, the master guide holds all information necessary for selecting current television programs, and the special guides contain information about future television programs. Special guides are downloaded from the satellite as needed and are not retained in memory due to their large size. As shown in FIG. 2, both the master

Accordingly, the Applicant simply cannot agree with the notion that Chaney teaches the transmission of two master program guides, one for each satellite. Chaney teaches a single MPG transmitted by both satellites, and since a single MPG is transmitted, it is apparent that that MPG must be a merged MPG that includes information about <u>all</u> of the programs transmitted by the system.

b) Chaney Does not Disclose Two Different "Service Providers"

Having incorrectly concluding that Chaney discloses the use of a different program guide for each satellite, the Examiner's Answer continues:

> Noting that appellant characterizes (See Brief, page 12) Hofman as a system, "in which two different network transmit two different program streams to the same receiver using two different signals" and recalling that appellant characterizes (see Brief pages 12-13) Chaney as a system, "wherein both signals come from the same network and sent to the subscribers", and then improperly concludes (see Brief page 14) that, "any attempt to somehow combine these two system ignores the fact that they are fundamentally different and incompatible". From the previous paragraph, it can be seen that Chaney does in fact teach two different service providers (i.e. two satellites) transmitting two different program streams to the same receiver using two different signals.

Respectfully, Chaney does not teach two different "service providers." Chaney

teaches a single service provider using a system that uses two satellites to transmit programs to users, as follows

> The present system utilizes two satellites within a few degrees of each other in geosynchronous earth-orbit stationed at an altitude of 22,300 miles, approximately over the state of Texas. With this arrangement, receivers located anywhere in the contiguous 48 states of the United States can receive signals from both satellites on the same receiving antenna dish without having to reposition the antenna dish. Each satellite transmits its signals with a respective polarization. Selecting a satellite for reception of its signals is accomplished at the receiving antenna by selecting those signals with the appropriate polarization. Each satellite includes sixteen transponders for transmitting signals to the receiving antenna dish over a range of frequencies. Each transponder is time-multiplexed to convey a plurality of television channels (e.g., six to eight channels), substantially simultaneously. The satellite signals are transmitted in compressed and packetized form, and comprise television and ancillary data signals. Because the system is capable of carrying as many as two hundred fifty-six channels, some television program selection method and apparatus, which is easy to understand and operate, must be provided for the user.

The Examiner's Answer seems to recognize a "floating" definition of the meaning of "different service providers" … referring to it as "cable or DBS" when discussing the Hofman reference and different "satellites" when referring to the Chaney reference:

> Hofman teaches a system which two different service providers (cable, DBS, etc.) transmit two different program streams to the same receiver using two different signals over different transmission mediums, wherein each of the service providers transmits a program guide associated with that service provider. Chaney teaches an instance wherein the program guides are transmitted on the same fixed SCID (SCID is '0000 0000 0001') for each satellite (i.e. service provider), and further shows that there are two satellite service providers. Accordingly the combination of Hofman in view of Chaney is deemed proper.

However, the Appeal Board can review the references and judge for themselves. Hofman is directed to the notion of accepting different program guides from different service providers and the customer's equipment merging them together after they are

received. Chaney is directed to the notion of one service provider merging all program guide info into a single MPG and transmitting that MPG to it's customers.

2. Claims 4, 5, and 12 are Patentable Under 35 U.S.C. §103(a) over Hofmann in view of Chaney, Norin, and Stinebruner.

Claims 4, 5 and 12 are rejected under 35 U.S.C. §103(a) as unpatentable over Hofmann in view of the Chaney, Norin and Stinebruner. Appellants respectfully traverse these rejections for the reasons described above. Also, while Stinebruner describes blank channels, it does not describe program guide describing a surrogate channel or anything analogous to it.

3. Claims 8 and 15 are Patentable Under 35 U.S.C. §103(a) over Hofmann in view of Chaney, Norin, and Eyer.

Claims 8 and 15 under 35 U.S.C. §103(a) are rejected as unpatentable over Hofmann in view of the Chaney, Norin and Eyer. Appellants respectfully traverse these rejections for the reasons described above with respect to the related independent claims.

Further, the Appellants note that the Office suggests that it is proper to combine Hofmann, Chaney, Norin, and Eyer. The Appellants' disagree. Recalling that the Office relied on Norin to argue that it was known in the prior art to transmit two separate signals (and one of them a spot beam), it is could hardly be expected that that second signal or spot beam would be used by the same network to duplicatively transmit the same information (the portion of the first set of programs) to subscribers that are already receiving the program material via the primary beam. In other words, one skilled in the art would be disincentivized from transmitting the same information with both beams. Accordingly, the Appellants cannot agree with that one of ordinary skill in the art would be motivated to combine the foregoing reference as described.

The Examiner's Answer states:

> Examiner notes that there exist scenarios wherein a plurality of services maybe overlapped over multiple service providers. Recalling that Chaney teaches transmission of services over two satellites (two service providers) to a receiver,

wherein Norin teaches that one of the satellites may provide localized programming independently or in conjunction with larger regional broadcasts. In such scenarios, the satellite providing the localized programming in conjunction with some larger regional broadcasts may comprise some services duplicated from the other satellite. Accordingly it would be advantageous to modify the system in view of Eyer by indicating a preferred source for duplicated services.

As a threshold matter, Chaney does not teach transmission of services using two service providers … it teaches a single service provider using two satellites. The Applicants are at a loss to explain why a system would be designed to provide "a preferred source for duplicated services."

4. Claims 16-18, 20, 21, and 37 are Patentable Under 35 U.S.C. §103(a) over Klosterman in view of Chaney and Norin.

With Respect to claim 16, the Applicant argued that even when combined, the Klosterman, Chaney, and Norin references do not teach the Applicant's invention

The Office acknowledges that Klosterman does not teach transmitting first and second program material on the same service channel, but argues that Chaney does so. Indeed, Chaney does. But Chaney discloses a system wherein the same program guide information is transmitted in both the first and second signals on that service channel (see above). Claim 16 recites that the first program information describes the first set of programs <u>but not a second set of programs</u>. Chaney teaches transmitting program guide information regarding the first <u>and the second</u> set of programs on the single channel. (emphasis in original)

The Applicant also pointed out that there was no rationale for modifying Klosterman as described in Chaney:

Also, like Hofmann, Klosterman is directed to a system that receives program material from different and independent networks (CATV, satellite) and

combines them at the receiver, whereas Chaney is directed to a system wherein a single network providing all the program information, but on different transponders. Simply put, there would be no reason for one of ordinary skill in the art to modify Klosterman as described in Chaney because they are directed to two different problems. That is because Klosterman envisions a system whereby the programs are received from different networks (and hence, there is some over lap between programs and a *need* to integrate the program guide information at the receiver) and Chaney is directed to a system wherein the programs are received from the same network and wherein the program guide information from all signals is consolidated into a single MPG before transmission.

The Examiner's reply appears to respond only to the appropriateness of modifying Klosterman as described in Chaney:

> Appellant also argues (see Brief page 19) that 'there would be no reason for one of ordinary skill in the art to modify Klosterman as described in Chaney because they are directed to two different problems' because 'Klosterman envisions a system whereby the programs are received from different networks (and hence there is some overlap between programs and a need to integrate the program guide at the receiver) and Chaney is directed to a system wherein programs are received from the same network and wherein the program guide information from all signals is consolidated into a single MPG before transmission'. As discussed above, Chaney merely teaches the specifics of transmission of MPG pertaining to each satellite, wherein it is noted that customers may receive service from more than one satellite. Accordingly the modified system contemplates the transmission and reception of a first and second program guides over a first and second signal respectively, first and second signal transmitted from different satellites, wherein the two program guides are transmitted over the same channel (SCID '0000 0000 0001') of their respective signals.

However, as discussed above, the Examiner's Answer has erroneously interpreted Chaney.

5. Claim 19 is Patentable Under 35 U.S.C. §103(a) over Klosterman in view of

Chaney, Norin, and Stinebruner.

Claim 19 is rejected under 35 U.S.C. §103(a) as unpatentable over Klosterman in view of the Chaney, Norin and Stinebruner. Appellants respectfully traverse these rejections for the same reasons as described above with respect to claim 16 and claim 4.

6. Claim 22 is Patentable Under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, Stinebruner, and Eyer.

Claim 22 is rejected under 35 U.S.C. §103(a) are rejected as unpatentable over Klosterman in view of the Chaney, Norin, Stinebruner and Eyer. Appellants respectfully traverse these rejections for the reasons described above with respect to claims 8 and 15.

7. Claims 23-28, 31, 32, and 38 are Patentable Under 35 U.S.C. §103(a) over Klosterman in view of Chaney and Norin.

Claims 23-28, 31, 32 and 38 are under 35 U.S.C. §103(a) as unpatentable over Klosterman in view of the Chaney and Norin.

Claim 23 recites "a first transmitter, communicatively coupled to the compiler, for transmitting first program guide information describing the first set of programs and not the second set of programs on a first service channel on the first signal; and a second transmitter, communicatively coupled to the compiler, for transmitting the second program guide information describing the second set of programs on the first service channel on the second signal." For the reasons above with respect to claims 1 and 16, the Appellants respectfully disagree that these features are disclosed in the references of record.

Claims 24-28, 31, 32, and 38 are patentable for the same reasons.

8. Claims 29-30 are Patentable Under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, and Stinebruner.

Claims 29-30 are under 35 U.S.C. §103(a) as unpatentable over Klosterman in view of the Chaney, Norin and Stinebruner. Appellants respectfully traverse these rejections for the same reasons described with respect to claims 4, 5, 12, and 19.

9. Claim 33 is Patentable Under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, and Eyer.

Claim 33 is rejected under 35 U.S.C. §103(a) as unpatentable over Klosterman in view of the Chaney, Norin and Eyer. Appellants respectfully traverse these rejections for the same reasons described in claims 8, 15, and 22.

10. The Answer's Comments Regarding the Meaning of "Network" are Unclear

The Examiner's Answer states

> Examiner additionally notes that there appears to be some confusion on the scope of "network" versus signal source types, presented by appellant's arguments (see Brief page 15) stating that, "it appears as if the Final Office Action argues that Hofman discloses signals broadcast by two different networks and Norin teaches that different signals can be transmitted by the same network". The examiner had previously construed the scope of networks to mean the same source type rather than appellant's broader definition of a "video distribution system" which in view of appellant's disclosure (see Disclosure fig. 6) is a video distribution system with multiple source providers (satellite 108 and 602). If applying the broader interpretation of "network" to be merely the "video distribution system", Hoffman, Chaney and Norin all present evidences for obtaining services from the video distribution system. For example, Hofman provides a system wherein receivers may receive services from a plurality of service providers, wherein each service provider illustratively use different transmission medium (i.e. cable, DBS, etc.). However, it should be noted that, the user receives services from "television distribution system" and therefore meets the claimed limitation of receiving first and second signal from a network. Alternatively, when applying the narrower definition as previously construed by the examiner, the modified system teaches first and second signal transmitted by two satellites, (i.e. the same signal source type reading on claimed "network"). See Chaney column 1 line 32-37 (two satellites providing services to a plurality of receivers) as well as Norin column 2, lines 12-1 5, (satellite broadcast of local television and satellite rebroadcast of larger regional broadcasts).

The Applicant does not understand what is meant by the Answer's "single source type" or why such a "source type" would be an appropriate way to define a network. The Examiner's Answer appears to argue two alternate definitions of the term "network" but the Applicant also does not understand precisely what the Examiner is attempting to argue in the foregoing passage.

In any case, FIG. 6 (reproduced below) shows a video distribution system that, like Chaney, uses two satellites … both controlled as shown in FIG. 1.

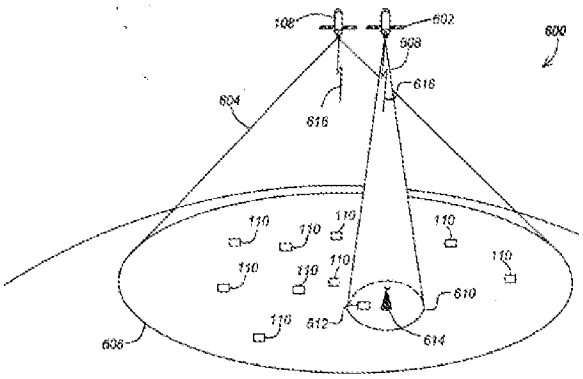


FIG. 6

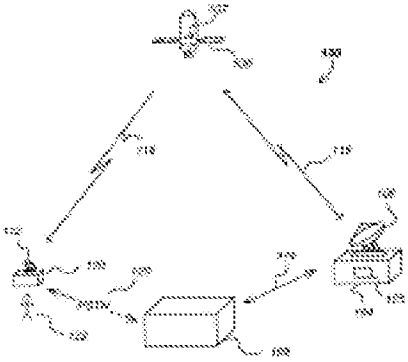


FIG. 1

The remainder of the arguments presented in the Examiner's Answer appear to be premised on an incorrect reading of the Chaney reference, which have been addressed above.

VII. CONCLUSION

In light of the above arguments, Appellants respectfully submit that the cited references do not anticipate nor render obvious the claimed invention. More specifically, Appellants' claims recite novel physical features which patentably distinguish over any and all references under 35 U.S.C. §§ 102 and 103. As a result, a decision by the Board of Patent Appeals and Interferences reversing the Examiner and directing allowance of the pending claims in the subject application is respectfully solicited.

Respectfully submitted,

Date: March 25, 2008

By: /s/ Victor G. Cooper
Name: Victor G. Cooper
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CLAIMS APPENDIX

1. In a network broadcasting a first signal having a first set of programs and not a second set of programs to a plurality of subscribers and a second signal having the second set of programs, a method of providing program guide information describing the second set of programs, comprising:

broadcasting first program guide information from the network, the first program guide information describing the first set of programs and not the second set of programs to the subscribers on a first service channel on the first signal; and

broadcasting second program guide information from the network, the second program guide information describing the second set of programs to a subset of the subscribers on the first service channel on the second signal, wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal.

2. The method of Claim 1, wherein the fundamental signal characteristic is carrier frequency, and the first signal is characterized by a first carrier frequency and the second signal is characterized by a second carrier frequency.

3. The method of Claim 1, wherein the fundamental signal characteristic is polarization and the first signal is characterized by a first polarization and the second signal is characterized by a second polarization.

4. The method of Claim 1, wherein the first program guide information includes information describing at least one surrogate channel.

5. The method of Claim 4, wherein a subscriber selection of at least one of the at least one surrogate channels commands reception of the second signal.

6. The method of Claim 1, wherein the second signal is a spot beam directed at the subset of subscribers.

7. The method of Claim 1, wherein the second set of programs comprise local programs and the second signal is a spot beam directed at a subset of the subscribers that are designated to receive the second set of programs.

8. The method of Claim 1, wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs.

9. In a network broadcasting a first signal having a first set of programs and not a second set of programs to a plurality of subscribers and a second signal having the second set of programs to a subset of the subscribers, a method of receiving program guide information describing the second set of programs, comprising the steps of:

receiving first program guide information from the network, the first program guide information describing the first set of programs and not the second set of programs on a first service channel on the first signal; and

receiving second program guide information from the network, the second program guide information describing the second set of programs on the first service channel on the second signal, wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal.

10. The method of Claim 9, wherein the fundamental signal characteristic is carrier frequency, and the first signal is characterized by a first carrier frequency and the second signal is characterized by a second carrier frequency.

11. The method of Claim 9, wherein the fundamental signal characteristic is polarization and the first signal is characterized by a first polarization and the second signal is characterized by a second polarization.

12. The method of Claim 10, wherein the first program guide information includes information describing at least one surrogate channel and the method further comprises the step of:

accepting a selection of at least one of the at least one surrogate channels in a receiver; and

receiving the second signal at the second carrier frequency on the first service channel.

13. The method of Claim 12, wherein the second signal is a spot beam directed at the receiver.

14. The method of Claim 12, wherein the second set of programs are local programs and the second signal is a spot beam directed at a subset of subscribers designated to receive the second set of programs.

15. The method of Claim 14, wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs.

16. A receiver, comprising:

a user interface for accepting subscriber commands;

a tuner selectably configurable to receive a first service channel on a first signal broadcast from a network and the first service channel on a second signal broadcast from the network, the first signal comprising a first set of programs and first program information describing the first set of programs but not a second set of programs, and the second signal comprising the second set of programs and second program guide information describing the second set of programs;

wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal; and

a processor, communicatively coupled to the user interface and the tuner, for retrieving the first program information and the second program information for providing the first and second program information to a presentation device, and for accepting subscriber commands from the user interface.

17. The receiver of Claim 16, wherein the fundamental signal characteristic is carrier frequency, and the first signal is characterized by a first carrier frequency and the second signal is characterized by a second carrier frequency.

18. The receiver of Claim 16, wherein the fundamental signal characteristic is polarization and the first signal is characterized by a first polarization and the second signal is characterized by a second polarization.

19. The receiver of Claim 16, wherein:

the first program guide includes information describing at least one surrogate channel;

the subscriber commands include a command to select at least one of the at least one surrogate channels; and

the processor further tunes the tuner to receive the second program guide information in response to the command to select at least one of the at least one surrogate channels.

20. The receiver of Claim 19, wherein the second signal is a spot beam directed at the receiver.

21. The receiver of Claim 19, wherein the second set of programs are local programs and the second signal is a spot beam directed at a subset of subscribers designated to receive the second set of programs.

22. The receiver of Claim 19, wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs.

23. An apparatus for use with a network broadcasting a first signal having a first set of programs and not a second set of programs to a plurality of subscribers and a second signal having the second set of programs to a subset of the subscribers, comprising:

a compiler, configured to segment the programs into the first set of programs and the second set of programs, and to generate first program guide describing the first set of programs and second program guide information describing the second set of programs;

a first transmitter, communicatively coupled to the compiler, for transmitting first program guide information describing the first set of programs and not the second set of programs on a first service channel on the first signal; and

a second transmitter, communicatively coupled to the compiler, for transmitting the second program guide information describing the second set of programs on the first service channel on the second signal;

wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal.

24. The apparatus of Claim 23, wherein the fundamental signal characteristic is carrier frequency, and the first signal is characterized by a first carrier frequency and the second signal is characterized by a second carrier frequency.

25. The apparatus of Claim 23, wherein the fundamental signal characteristic is polarization and the first signal is characterized by a first polarization and the second signal is characterized by a second polarization.

26. The apparatus of Claim 23, wherein the first transmitter comprises a first transponder and the second transmitter comprises a second transponder.

27. The apparatus of Claim 26, wherein the first transponder and the second transponder are disposed on a satellite.

28. The apparatus of Claim 23, wherein the first transponder is disposed on a first satellite and the second transponder is disposed on a second satellite, and wherein the first satellite and the second satellite are disposed within a beamwidth of a receiver antenna.

29. The apparatus of Claim 23, wherein the first program guide information includes information describing at least one surrogate channel.

30. The apparatus of Claim 29, wherein a subscriber selection of at least one of the at least one surrogate channels commands reception of the second signal.

31. The apparatus of Claim 23, wherein the second signal is a spot beam directed at a subset of subscribers.

32. The apparatus of Claim 23, wherein the second set of programs comprise local programs and the second signal is a spot beam directed at a subset of the subscribers that are designated to receive the second set of programs.

33. The apparatus of Claim 23, wherein the second signal further includes a portion of the first set of programs and the second program information further describes a portion of the first set of programs.

34. In a network broadcasting a first signal having a first set of programs and not a second set of programs, each of the programs in the first set of programs transmitted on an associated one of a plurality of service channels to a plurality of subscribers and a second signal having the second set of programs, each of the second set of programs transmitted on associated one of the plurality of service channels, a method of providing program guide information describing the second set of programs, comprising:

broadcasting first program guide information from the network, the first program guide information describing the first set of programs and not the second set of programs to the subscribers on a first service channel on the first signal; and

broadcasting second program guide information from the network, the second program guide information describing the second set of programs to a subset of the subscribers on the first service channel on the second signal, wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal.

35. The method of claim 1, wherein each of the programs in the first set of programs are transmitted on an associated one of a plurality of service channels, and each of the second set of programs are transmitted on an associated one of the plurality of service channels.

36. The method of claim 9, wherein each of the programs in the first set of programs are transmitted on an associated one of a plurality of service channels, and each of the second set of programs are transmitted on an associated one of the plurality of service channels.

37. The receiver of claim 16, wherein each of the programs in the first set of programs are transmitted on an associated one of a plurality of service channels, and each of the second set of programs are transmitted on an associated one of the plurality of service channels.

38. The apparatus of claim 23, wherein each of the programs in the first set of programs are transmitted on an associated one of a plurality of service channels, and each of the second set of programs are transmitted on an associated one of the plurality of service channels.

EVIDENCE APPENDIX

(none)

RELATED APPEALS AND INTERFERENCES APPENDIX

(none)